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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.                                 | CONFIRMATION NO.                          |
|--|-------------|-----------------------|---|---|
| 10/061,364   | 02/04/2002  | Vyacheslav S. Belenko | CIT/K-0138  | 8168                                      |
| <div>34610      7590      07/26/2007</div> <div>KED &amp; ASSOCIATES, LLP</div> <div>P.O. Box 221200</div> <div>Chantilly, VA 20153-1200</div> |             |                       |   |   |
|  |             |                       | <div>EXAMINER</div> <div>BROWN, CHRISTOPHER J</div> |   |
|  |             |                       | <div>ART UNIT</div> <div>2134</div>                 | <div>PAPER NUMBER</div>                   |
|  |             |                       | <div>MAIL DATE</div> <div>07/26/2007</div>          | <div>DELIVERY MODE</div> <div>PAPER</div> |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/061,364

**Applicant(s)**

BELENKO ET AL.

**Examiner**

Christopher J. Brown

**Art Unit**

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/26/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,6,9,11,13,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9,11,13,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 4/26/2007 have been fully considered but they are not persuasive.

Applicant argues that Ansell does not disclose or teach that the compliance test is performed or not according to whether an external device is a recording device or a displaying device.

The applicant does not refer to a specific claim, but it can be assumed that the applicant is referring to claim 11. The examiner argues that Ansell US 6,367,019 teaches performing a compliance test. Claim 11 states if the device is for recording, sending a key, and if for displaying performing a compliance test prior to outputting said key. Claim 11 does not say that a compliance test may **not** be performed on a recording device, only that it is performed on a displaying device. Since Ansell teaches a compliance test, it may be relied upon regardless of device type.

The applicant also argues that Kawai does not teach that media data may be passed to a recording device without a compliance test. This argument is moot as the claims Kawai rejected have been cancelled.

### ***Claim Rejections - 35 USC § 112***

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Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 states step (f) "or" step (g). It is unclear from the claim if the applicant intends steps "a-f, or g" or between f, and g. The examiner recommends including step g in step (f) so that it is clear step (f) is choosing between one or the other.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 9-13, 15, 16, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sims III US 6,550,011 in view of Gruse US 6,398,245 in view of Ansell US 6,367, 019

As per claims 1, 5, 11, and 13 Sims III teaches a media distribution system in which the media data is encrypted with a symmetric key, (Col 10 lines 15-20, 53-60). Sims III teaches distributing the symmetric media key by encrypting it with a public key (Col 10 lines 45-55). Sims III teaches decrypting said media key with a private key, and using said media key to exchange data, (Col 10 lines 55-65). Sims III does not teach player identification or owner information based in watermark data.

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Gruse teaches an owner watermark that identifies the owner and owner copy control information, (Col 11 lines 30-34). Gruse teaches a second watermark made by a player that includes the player identification and limitations on a license purchased from the content owner, (Col 11 lines 33-37). Gruse teaches a player application that updates a watermark, thus adding a player watermark, with control information derived from said owner control information, (Col 11 line 23).

It would have been obvious to one of ordinary skill in the art to use the player identification in a watermark because it further discourages copyright violation.

Ansell teaches the end user player device authenticating another compliant device and encrypting data with a media key, and encrypting a media key with a public key of the compliant device, only sending media if authentication was successful (Col 2 lines 52-67, Col 3 lines 1-15). Ansell teaches performing a compliance test depending on the device type (no compliance test if transferred via removable storage medium) (Col 5 lines 20-35).

It would have been obvious to one of ordinary skill in the art to include the end user player functionality because the system allows the user to share legally owned music securely.

As per claims 2, and 6 Sims III teaches the public key uses an asymmetric algorithm, (Col 4 lines 6-8).

As per claim 9, 21, 22 Sims III teaches using watermark identification and copy-control information, (Col 15 lines 10-15, Col 21 lines 15-22).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

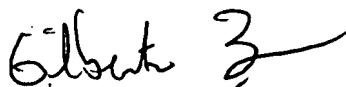
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571)272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher J. Brown

7/19/07

A handwritten signature in black ink, appearing to be 'CJB'.A handwritten signature in black ink, appearing to be 'Gilberto Jr.'  
GILBERTO BARRON JR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100